

FILED
Clerk
District Court

SEP 29 2009

For The Northern Mariana Islands
By _____
(Deputy Clerk)

1 Anna Y. Park, CA 164242
2 EQUAL EMPLOYMENT
3 OPPORTUNITY COMMISSION
4 255 East Temple Street, 4th Floor
Los Angeles, CA 90012
Telephone: (213) 894-1083
Facsimile: (213) 894-1301
Email: lado.legal@eeoc.gov

5 Gregory L. McClinton, CA 153553
6 EQUAL EMPLOYMENT
7 OPPORTUNITY COMMISSION
8 300 Ala Moana Boulevard, Suite 7-127
Honolulu, Hawaii 96850
Telephone: (808)541-3122
Facsimile: (808)541-3390
Email: Gregory.McClinton@eeoc.gov

9 Attorneys for Plaintiff
10 EQUAL EMPLOYMENT
11 OPPORTUNITY COMMISSION

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN MARIANA ISLANDS**
14

15 U.S. EQUAL EMPLOYMENT
16 OPPORTUNITY COMMISSION,

17 Plaintiff,

18 vs.
19

20 Pacific Airport Services, Inc., and
21 DOES 1-10 inclusive.

22
23 Defendant(s).
24

Civil Action No.: **CV 09 - 0039**

**COMPLAINT AND JURY TRIAL
DEMAND; SUMMONS**

25 **NATURE OF THE ACTION**

26 This is an action under Title VII of the Civil Rights Act of 1964 and Title I
27 of the Civil Rights Act of 1991 to correct unlawful employment practices. The
28 United States Equal Employment Opportunity Commission ("Plaintiff" or

1 “Commission”) alleges that Defendant Pacific Airport Services, Inc., “PAS” and
2 Does 1 - 10 (“Defendant”) subjected Charging Party Brenda Ann Muna and other
3 similarly situated individuals to sexual harassment on the basis of sex, female,
4 resulting in a hostile work environment and constructive discharge.

5
6 **JURISDICTION AND VENUE**

7 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
8 1331, 1337, 1343, and 1345.

9 2. This action is authorized and instituted pursuant to Section 706(f)(1)
10 and (3) and Section 707 of Title VII of the Civil Rights Act of 1964, as amended,
11 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of the Civil
12 Rights Act of 1991, 42 U.S.C. § 1981a.

13 3. The employment practices alleged to be unlawful were committed
14 within the jurisdiction of the United States District Court for the District of the
15 Northern Mariana Islands.

16
17 **PARTIES**

18 4. Plaintiff, United States Equal Employment Opportunity Commission,
19 is the federal agency charged with the administration, interpretation, and
20 enforcement of Title VII, and is expressly authorized to bring this action by
21 Section 706(f)(1) and (3) and Section 707 of Title VII, 42 U.S.C. § 2000e-5(f)(1)
22 and (3).

23 5. At all relevant times, Defendant has been continuously doing
24 business in Saipan and in the jurisdiction of the United States District Court of the
25 Northern Mariana Islands. At all relevant times, Defendant has continuously
26 employed fifteen (15) or more persons.

1 6. At all relevant times, Defendant has continuously engaged in an
2 industry affecting commerce within the meaning of Sections 701(b), (g), and (h)
3 of Title VII, 42 U.S.C. § 2000e(b), (g), and (h).

4 7. Plaintiff is ignorant of the true names and capacities of Defendants
5 sued as Does 1 through 10, inclusive. Therefore, Plaintiff sues said Defendants by
6 such fictitious names. Plaintiff reserves the right to amend the complaint to name
7 the Doe Defendants as they become known. Plaintiff alleges that each of the
8 Defendants named as Doe Defendants was in some manner responsible for the
9 acts and omissions alleged herein and Plaintiff will amend the complaint to allege
10 such responsibility when Plaintiff has ascertained the identity of the Doe
11 Defendants.

12 8. It is further alleged on information and belief that the named and
13 unnamed Defendants in this complaint are alter egos, joint employers, and/or
14 integrated enterprises of each other.

15 9. All of the acts and failures to act alleged herein were duly performed
16 by and attributable to all Defendants, each acting as successor, agent, employee,
17 or under the direction and control of the others, except as otherwise specifically
18 alleged. The alleged acts and failures to act were within the scope of such agency
19 and/or employment, and each Defendant participated in, approved and/or ratified
20 the other Defendants' unlawful acts and omissions alleged in this complaint.
21 Whenever and wherever reference is made in this Complaint to any act by a
22 Defendant or Defendants, such allegations and reference shall also be deemed to
23 mean the acts and failures to act of each Defendant acting individually, jointly,
24 and/or severally.

25 **STATEMENT OF CLAIMS**

26 10. More than thirty days prior to the filing of this lawsuit, Brenda Ann
27 Muna filed a charge with the Commission alleging that Defendants violated Title
28 VII. The Commission investigated and issued a Letter of Determination. The

1 Commission found that Defendant subjected Brenda Ann Muna and other
2 similarly situated employees to a hostile work environment on the basis of sex,
3 female. The Commission also found that Defendant constructively discharged as
4 a result of its failure to take effective remedial action regarding the hostile work
5 environment.

6 11. Since at least August 20, 2006, Defendant has engaged in unlawful
7 employment practices and in a pattern of such practices in violation of Section
8 703 and 707 of Title VII, 42 U.S.C. § 2000e-2. Defendant subjected Brenda Ann
9 Muna and other similarly situated employees to sexual harassment resulting in a
10 sexually hostile work environment. The sexual harassment included, but was not
11 limited to, sexually charged and/or suggestive speech and/or conduct such as
12 unwelcome physical touching by supervisor David Flores ("Flores"), Defendant's
13 manager. Flores slapped Muna and other female employees on their buttocks
14 with his hand. Further, Flores asked Muna in a sexually suggestive matter "can I
15 do you", "why don't you try my dick", "can I touch your breast", purposely
16 placed his pelvic area near Brenda Ann Muna's face and made other sexually
17 suggestive comments and acts.

18 12. Flores also sexually harassed Jeding Matagolai by, for example,
19 requesting in a sexually suggestive matter that she sit on his lap and telling her she
20 had a "nice ass."

21 13. Brenda Ann Muna complained of the sexual harassment to her
22 supervisor and other management officials of the Defendant. Yet, despite Brenda
23 Ann Muna's complaints, Defendant took no action against Flores.

24 14. On or about August 2006, Brenda Ann Muna wrote a letter to
25 Defendant's president complaining about the continued sexual harassment. She
26 told the Defendant that she could no longer tolerate her working conditions.
27 Although Defendant allegedly conducted an investigation into Brenda Ann
28 Muna's complaints, the result still required her to be supervised by Flores.

1 Finally, due to lack of action into Brenda Muna complaints, she was compelled to
2 submit her resignation on January 24, 2007.

3 15. The effect of the practices complained as described above has been to
4 deprive Brenda Ann Muna and other similarly situated employees of equal
5 employment opportunities and otherwise adversely affect their status as
6 employees, because of their sex, female.

7 16. The unlawful employment practices described in paragraphs 10
8 through 14 above were intentional.

9 17. As a direct and proximate result of the acts of Defendant, as
10 described above, Brenda Ann Muna and similarly situated employees have
11 suffered pain and suffering, inconvenience, loss of enjoyment of life, humiliation
12 and damages, all to be proven at trial.

13 18. As a direct and proximate result of Defendant's acts as described
14 above, Brenda Ann Muna and similarly situated employees suffered a loss of
15 earnings in an amount to be proven at trial.

16 19. The unlawful employment practices described above were done with
17 malice or with reckless indifference to the federally protected rights of Brenda
18 Ann Muna and similarly situated employees.

19
20 **PRAYER FOR RELIEF**

21 Wherefore, the Commission respectfully requests that this Court:

22 A. Grant a permanent injunction enjoining Defendant, its respective
23 officers, successors, assigns, agents, and all persons in active concert or
24 participation with them, from engaging in any employment practices, including
25 sexual harassment, which discriminate on the basis of sex;

26 B. Order Defendant to institute and carry out policies, practices, and
27 programs which provide equal employment opportunities, and which eradicate the
28 effects of its past and present unlawful employment practices;

1 C. Order Defendant to make whole Brenda Ann Muna and similarly
2 situated aggrieved employees by providing them appropriate back pay with
3 prejudgment interest, and front pay in amounts to be determined at trial, other past
4 and future pecuniary losses, and/or other affirmative relief necessary to eradicate
5 the effects of Defendant's unlawful employment practices;

6 D. Order Defendant to make whole Brenda Ann Muna and similarly
7 situated aggrieved employees by providing compensation for past and future non-
8 pecuniary losses resulting from the unlawful practices complained as described
9 above, including, but not limited to pain and suffering, inconvenience, loss of
10 enjoyment of life, and humiliation, in amounts to be determined at trial;

11 E. Order Defendant to pay Brenda Ann Muna and similarly situated
12 aggrieved employees punitive damages for its malicious and /or reckless conduct
13 as described above, in amounts to be determined at trial;

14 F. Grant such further relief as the Court deems necessary and proper in
15 the public interest; and

16 G. Award the Commission its costs of this action.

17
18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

JURY TRIAL DEMAND


The Commission requests a jury trial on all questions of fact raised by its complaint.

JAMES LEE
Acting General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

U.S. Equal Employment Opportunity
Commission
1801 L Street, N.W.
Washington, DC 20507

Date: September 28, 2009

BY:  _____

ANNA Y. PARK
Regional Attorney

MICHAEL FARRELL
Supervisory Trial Attorney

GREGORY L. McCLINTON
Senior Trial Attorney

U.S. Equal Employment Opportunity
Commission
Los Angeles District Office